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CHILD SUPPORT MODIFICATION HANDBOOK

Child Support Orders Can Be Changed



Department of Social Services
Division of Child Support



This brochure explains how your child support order can be modified to accommodate changes in income or other circumstances. South Dakota's child support laws were amended in 2005 to provide a more uniform method for determining child support obligations. Child support payment guidelines are listed at the end of this brochure. These laws also may allow parties to modify existing child support orders.

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Child Support Offices

The forms to petition for a modification of child support are available without charge from the Division of Child Support (DCS). Forms are updated regularly, so do not use forms from sources other than DCS. To obtain a petition form or to apply for services, contact the Child Support office nearest you, visit us on the web at www.dss.sd.gov/childsupport/services or contact the Division of Child Support at 700 Governors Drive, Pierre, SD 57501-2291 or call (605) 773-4724.

Aberdeen: 420 S. Washington St., PO Box 1300, 57402-1300, 605-626-2375.

Huron: 110 Third St., S.W., Suite 200, 57350-2450, 605-353-8473.

Mitchell: 116 E. 11th Ave., 57301-1432, 605-995-8077.

Pierre: 912 E. Sioux Ave., 57501-3940, 605-773-3637.

Rapid City: 510 N. Cambell, PO Box 2440, 57709-2440, 605-394-2525.

Sioux Falls: 811 E. 10th St. Dept. 2, 57103-1650, 605-367-5464.

Watertown: 2001 9th Ave. S.W., Suite 300, PO Box 670, 57201-0670, 605-882-5186.

Yankton: 3113 N. Spruce St., Suite 200, 57078-5320, 605-668-3030.

Contents

How to Modify a Child Support Order 1

| | |
|--|---|
| Steps in the Modification Process | 1 |
| Central Payment Center | 5 |
| Modification of Orders from Other States ... | 5 |

Provisions of the Child Support Guideline Laws 5

| | |
|---|---|
| Income of Both Parents Considered | 5 |
| Determining the Basic Child Support Obligation from the Schedule | 8 |
| Deviations May Be Made | 9 |

Other Factors that May Be Considered 10

| | |
|--|----|
| Visitation Abatement and Shared Responsibility Adjustment | 10 |
| Child Care Expenses | 11 |
| Travel Costs | 12 |
| Medical Insurance | 12 |
| Medical Expenses Not Covered by Insurance | 13 |
| Immediate Income Withholding | 13 |

Modification Process Flowchart 14

Support Obligation Schedule 15

| | |
|--------------------------------------|----|
| Combined Income 0 – 1,900 | 15 |
| Combined Income 1,950 – 3,550 | 17 |
| Combined Income 3,600 – 5,200 | 19 |
| Combined Income 5,250 – 6,850 | 21 |
| Combined Income 6,900 – 8,500 | 23 |
| Combined Income 8,550 – 10,000 | 25 |

Child Support Offices 27

Notes 28

How to Modify a Child Support Order

Steps in the Modification Process

1. Filing a petition to change a child support order

In South Dakota, the Circuit Court is the only entity with authority to modify a child support obligation. This is usually done in response to a petition filed by one of the parents. Either parent or a representative may file a petition to modify their child support order. A support order may be modified without showing any change in circumstances if the order was entered prior to July 1, 2005.

An order entered on or after July 1, 2005 may be modified only: 1) if it was entered three years or more from the date the petition is filed; or 2) upon showing that a substantial change in circumstances has occurred since the entry of the order. Petition for Modification forms are available from Child Support offices throughout the state, online at www.dss.sd.gov/childsupport, or by calling the Division of Child Support at 605-773-4724.

A petitioner must provide the complete address of the other parent and enter the actual dollar amount of the support obligation being requested. If the petitioner is not sure what this amount should be, he or she should enter an amount that they believe the support order should be. See child support payment guidelines at the end of this handbook.

The completed, notarized petition, along with a financial statement, verification of income, Child Support Order Filing Data form UJS/DSS 089, copy of the most recent South Dakota court order or decree establishing child support, and other necessary attachments must be filed with the Department of Social Services, Division of Child Support, Modification Section, 700 Governors Drive, Pierre, South Dakota, 57501-2291.

| Three Children | Four Children | Five Children | Six Children |
|----------------|---------------|---------------|--------------|
| 2,208 | 2,440 | 2,644 | 2,830 |
| 2,217 | 2,450 | 2,656 | 2,842 |
| 2,226 | 2,460 | 2,667 | 2,853 |
| 2,236 | 2,470 | 2,678 | 2,865 |
| 2,245 | 2,481 | 2,689 | 2,877 |
| 2,254 | 2,491 | 2,700 | 2,889 |
| 2,263 | 2,501 | 2,711 | 2,901 |
| 2,273 | 2,511 | 2,722 | 2,913 |
| 2,282 | 2,522 | 2,734 | 2,925 |
| 2,291 | 2,532 | 2,745 | 2,937 |
| 2,301 | 2,542 | 2,756 | 2,949 |
| 2,310 | 2,552 | 2,767 | 2,961 |
| 2,319 | 2,563 | 2,778 | 2,973 |
| 2,329 | 2,573 | 2,789 | 2,984 |
| 2,338 | 2,583 | 2,800 | 2,996 |
| 2,347 | 2,594 | 2,812 | 3,008 |
| 2,356 | 2,604 | 2,823 | 3,020 |
| 2,366 | 2,614 | 2,834 | 3,032 |
| 2,375 | 2,624 | 2,845 | 3,044 |
| 2,384 | 2,635 | 2,856 | 3,056 |
| 2,394 | 2,645 | 2,867 | 3,068 |
| 2,403 | 2,655 | 2,878 | 3,080 |
| 2,412 | 2,665 | 2,889 | 3,092 |
| 2,422 | 2,676 | 2,901 | 3,104 |
| 2,431 | 2,686 | 2,912 | 3,116 |
| 2,440 | 2,696 | 2,923 | 3,127 |
| 2,449 | 2,707 | 2,934 | 3,139 |
| 2,459 | 2,717 | 2,945 | 3,151 |
| 2,468 | 2,727 | 2,956 | 3,163 |
| 2,477 | 2,737 | 2,967 | 3,175 |

| Monthly Net Income | One Child | Two Children |
|-----------------------|--------------|-----------------|
| 8,550 | 1,296 | 1,874 |
| 8,600 | 1,301 | 1,882 |
| 8,650 | 1,307 | 1,890 |
| 8,700 | 1,312 | 1,898 |
| 8,750 | 1,317 | 1,906 |
| 8,800 | 1,323 | 1,914 |
| 8,850 | 1,328 | 1,922 |
| 8,900 | 1,333 | 1,929 |
| 8,950 | 1,339 | 1,937 |
| 9,000 | 1,344 | 1,945 |
| 9,050 | 1,350 | 1,953 |
| 9,100 | 1,355 | 1,961 |
| 9,150 | 1,360 | 1,969 |
| 9,200 | 1,366 | 1,977 |
| 9,250 | 1,371 | 1,984 |
| 9,300 | 1,377 | 1,992 |
| 9,350 | 1,382 | 2,000 |
| 9,400 | 1,387 | 2,008 |
| 9,450 | 1,393 | 2,016 |
| 9,500 | 1,398 | 2,024 |
| 9,550 | 1,403 | 2,031 |
| 9,600 | 1,409 | 2,039 |
| 9,650 | 1,414 | 2,047 |
| 9,700 | 1,420 | 2,055 |
| 9,750 | 1,425 | 2,063 |
| 9,800 | 1,430 | 2,071 |
| 9,850 | 1,436 | 2,079 |
| 9,900 | 1,441 | 2,086 |
| 9,950 | 1,447 | 2,094 |
| 10,000 | 1,452 | 2,102 |

2. Completed petition is filed with the Clerk of Courts

When the petition and attachments are received by the Department of Social Services, the forms are reviewed for completeness and forwarded to the Clerk of Courts in the county where the support order was entered. The Circuit Court Judge will then appoint a referee to conduct a hearing.

3. Referee conducts a modification hearing

The court appointed referee will send a notice of the modification hearing to both parties by regular mail, and request the respondent to submit financial and other information to be considered in establishing the child support obligation. The notice will advise the parties of the time and place of the hearing. This usually occurs within 30 days from the date the petition is filed. This time frame may vary depending on the workload of the referee and the location of the hearing. The hearing may be held in the county of the parent responding to the petition or in the county where the referee is located. **The petitioner must appear at the hearing in person or by telephone or the referee may dismiss the modification request.**

While there are no fees charged to either party, the referee or the court may assess costs under certain circumstances. The referee will designate the location of the hearing, typically a private office or local courthouse. Referees may hold hearings by telephone if either party lives a long distance from the hearing site. Distant parties who wish to take part by telephone must make arrangements with the referee in advance of the hearing.

At the hearing, the referee will obtain information and testimony from the parents regarding their financial resources and circumstances in order to determine the child support obligation as provided under the child support guidelines and laws. The parents should present any issues and evidence they

want the referee to consider in setting the support order, i.e. deviations or additional factors that they want considered in establishing the obligation.

It is not necessary for either party to obtain legal counsel for a modification hearing. However, they may do so if they desire, at their own expense. Persons not licensed as attorneys by the South Dakota Bar Association may not represent the parties at a modification hearing.

Once a petition is filed with the Clerk of Courts, the parties may not enter into a voluntary agreement for payment of child support without the referee's written approval.

4. Referee submits a recommended order to the court

After the modification hearing, the referee will prepare and file a report and a recommended order for support with the Circuit Court. Both parties are sent a copy of the referee's report and the recommended order.

In determining the support obligation, the combined monthly net incomes of both parents and number of children shall be used in determining the obligation and divided proportionately between the parties based on their respective net incomes. The amount of child support to be paid by the noncustodial parent is determined by finding the category on the child support payment schedule that is closest to the combined monthly net incomes for both parents and apportioning that amount between the parents on the basis of their respective net incomes. (The schedule is located in the back of this book.)

If the obligation using only the noncustodial parent's monthly net income is within the bolded areas of the schedule, that amount shall be compared to the noncustodial parent's proportionate share using both parents' monthly net incomes. The lesser amount establishes the noncustodial parent's child support order.

| Three Children | Four Children | Five Children | Six Children |
|---------------------------|--------------------------|--------------------------|-------------------------|
| 1,869 | 2,065 | 2,239 | 2,395 |
| 1,880 | 2,077 | 2,252 | 2,410 |
| 1,891 | 2,089 | 2,265 | 2,424 |
| 1,902 | 2,102 | 2,278 | 2,438 |
| 1,913 | 2,114 | 2,291 | 2,452 |
| 1,924 | 2,126 | 2,304 | 2,466 |
| 1,935 | 2,138 | 2,317 | 2,480 |
| 1,946 | 2,150 | 2,331 | 2,494 |
| 1,957 | 2,162 | 2,344 | 2,508 |
| 1,968 | 2,174 | 2,357 | 2,522 |
| 1,979 | 2,186 | 2,370 | 2,536 |
| 1,989 | 2,198 | 2,383 | 2,550 |
| 2,000 | 2,210 | 2,396 | 2,564 |
| 2,011 | 2,223 | 2,409 | 2,578 |
| 2,022 | 2,235 | 2,422 | 2,592 |
| 2,033 | 2,247 | 2,435 | 2,606 |
| 2,044 | 2,259 | 2,449 | 2,620 |
| 2,055 | 2,271 | 2,462 | 2,634 |
| 2,066 | 2,283 | 2,475 | 2,648 |
| 2,077 | 2,295 | 2,488 | 2,662 |
| 2,087 | 2,306 | 2,500 | 2,675 |
| 2,096 | 2,316 | 2,511 | 2,687 |
| 2,105 | 2,327 | 2,522 | 2,699 |
| 2,115 | 2,337 | 2,533 | 2,710 |
| 2,124 | 2,347 | 2,544 | 2,722 |
| 2,133 | 2,357 | 2,555 | 2,734 |
| 2,143 | 2,368 | 2,567 | 2,746 |
| 2,152 | 2,378 | 2,578 | 2,758 |
| 2,161 | 2,388 | 2,589 | 2,770 |
| 2,171 | 2,398 | 2,600 | 2,782 |
| 2,180 | 2,409 | 2,611 | 2,794 |
| 2,189 | 2,419 | 2,622 | 2,806 |
| 2,198 | 2,429 | 2,633 | 2,818 |

| Monthly Net Income | One Child | Two Children |
|-------------------------------|----------------------|-------------------------|
| 6,900 | 1,098 | 1,588 |
| 6,950 | 1,105 | 1,597 |
| 7,000 | 1,111 | 1,607 |
| 7,050 | 1,118 | 1,616 |
| 7,100 | 1,124 | 1,625 |
| 7,150 | 1,130 | 1,634 |
| 7,200 | 1,137 | 1,644 |
| 7,250 | 1,143 | 1,653 |
| 7,300 | 1,150 | 1,662 |
| 7,350 | 1,156 | 1,671 |
| 7,400 | 1,162 | 1,681 |
| 7,450 | 1,169 | 1,690 |
| 7,500 | 1,175 | 1,699 |
| 7,550 | 1,182 | 1,709 |
| 7,600 | 1,188 | 1,718 |
| 7,650 | 1,194 | 1,727 |
| 7,700 | 1,201 | 1,736 |
| 7,750 | 1,207 | 1,746 |
| 7,800 | 1,214 | 1,755 |
| 7,850 | 1,220 | 1,764 |
| 7,900 | 1,226 | 1,772 |
| 7,950 | 1,231 | 1,780 |
| 8,000 | 1,237 | 1,788 |
| 8,050 | 1,242 | 1,796 |
| 8,100 | 1,247 | 1,804 |
| 8,150 | 1,253 | 1,812 |
| 8,200 | 1,258 | 1,820 |
| 8,250 | 1,263 | 1,827 |
| 8,300 | 1,269 | 1,835 |
| 8,350 | 1,274 | 1,843 |
| 8,400 | 1,280 | 1,851 |
| 8,450 | 1,285 | 1,859 |
| 8,500 | 1,290 | 1,867 |

The referee may also consider deviations provided by the parents and additional issues raised by either party such as child care costs, health insurance coverage, abatements for visitation or shared parenting, and travel costs for visitation.

5. Filing objections to the referee's report

Within 10 days of the referee's report and recommended order, either party may file objections contesting the recommended child support order. Objections must be in writing and filed with the Clerk of Courts in the county that issued the order being modified. The Circuit Court may require a transcript of the referee hearing to be filed with the written objections.

If objections are filed within 10 days by one of the parties, the other party shall have an additional five days from the date of service of the objections to file additional objections with the court. The Circuit Court then schedules a hearing to consider the objections to the referee's report. This hearing is based solely on the record established at the referee's hearing. That is, the Court may not consider any new evidence or information, only the issues and evidence presented at the referee's modification hearing. After the court hearing on the objections, the Circuit Court may adopt, modify, or reject and remand the referee's report with instructions to the referee for further hearing.

6. Court enters the modification order

If neither party files objections to the referee's report and recommended order within 10 days of the referee's report, the Circuit Court will enter the order. If objections are filed, the court will enter an order after the court hearing on the objections. A copy of the order will be sent to both parties by certified mail.

A party who disagrees with the court order may appeal the decision to the South Dakota Supreme Court within 30 days.

Central Payment Center

The Department of Social Services is the central payment center for the state and handles all disbursements. (SDCL 25-7A-3.2) Once the modified order is filed with the Clerk of Courts, all future child support payments shall be made payable to the Division of Child Support and mailed to: **Child Support Payment Center, 700 Governors Drive, Suite 84, Pierre, SD 57501.**

Modification of Orders from Other States

Under the provisions of the Uniform Interstate Family Support Act, an order for child support issued in another state may be registered in South Dakota for modification if certain conditions are met as specified by South Dakota law. (SDCL 25-9B-611 or 25-9B-613). For further information about modification of out-of-state child support orders, contact your attorney or the Division of Child Support.

Provisions of the Child Support Guideline Laws

Income of Both Parents Considered

The combined monthly net incomes of both parents is generally used in determining the obligation and divided proportionately between the parents based on their respective net incomes. The noncustodial parent's proportionate share establishes the amount of the child support order.

If the obligation using only the noncustodial parent's monthly net income is an obligation within the bolded areas of the guidelines, that amount shall be compared to the noncustodial parent's proportionate share using both parents' monthly net incomes. The lesser amount establishes the

| Three Children | Four Children | Five Children | Six Children |
|----------------|---------------|---------------|--------------|
| 1,535 | 1,696 | 1,839 | 1,968 |
| 1,544 | 1,706 | 1,850 | 1,979 |
| 1,553 | 1,717 | 1,861 | 1,991 |
| 1,563 | 1,727 | 1,872 | 2,003 |
| 1,572 | 1,737 | 1,883 | 2,014 |
| 1,581 | 1,747 | 1,894 | 2,026 |
| 1,590 | 1,757 | 1,905 | 2,038 |
| 1,599 | 1,767 | 1,916 | 2,050 |
| 1,608 | 1,777 | 1,927 | 2,061 |
| 1,618 | 1,787 | 1,938 | 2,073 |
| 1,627 | 1,797 | 1,948 | 2,085 |
| 1,636 | 1,808 | 1,959 | 2,097 |
| 1,645 | 1,818 | 1,970 | 2,108 |
| 1,654 | 1,828 | 1,981 | 2,120 |
| 1,663 | 1,838 | 1,992 | 2,132 |
| 1,672 | 1,848 | 2,003 | 2,143 |
| 1,683 | 1,860 | 2,016 | 2,157 |
| 1,694 | 1,872 | 2,029 | 2,171 |
| 1,705 | 1,884 | 2,042 | 2,185 |
| 1,716 | 1,896 | 2,055 | 2,199 |
| 1,727 | 1,908 | 2,068 | 2,213 |
| 1,738 | 1,920 | 2,081 | 2,227 |
| 1,749 | 1,932 | 2,094 | 2,241 |
| 1,760 | 1,944 | 2,108 | 2,255 |
| 1,770 | 1,956 | 2,121 | 2,269 |
| 1,781 | 1,968 | 2,134 | 2,283 |
| 1,792 | 1,981 | 2,147 | 2,297 |
| 1,803 | 1,993 | 2,160 | 2,311 |
| 1,814 | 2,005 | 2,173 | 2,325 |
| 1,825 | 2,017 | 2,186 | 2,339 |
| 1,836 | 2,029 | 2,199 | 2,353 |
| 1,847 | 2,041 | 2,212 | 2,367 |
| 1,858 | 2,053 | 2,226 | 2,381 |

| Monthly Net Income | One Child | Two Children |
|-------------------------------|----------------------|-------------------------|
| 5,250 | 910 | 1,310 |
| 5,300 | 915 | 1,318 |
| 5,350 | 920 | 1,325 |
| 5,400 | 925 | 1,332 |
| 5,450 | 930 | 1,340 |
| 5,500 | 934 | 1,347 |
| 5,550 | 939 | 1,355 |
| 5,600 | 944 | 1,362 |
| 5,650 | 949 | 1,370 |
| 5,700 | 954 | 1,377 |
| 5,750 | 959 | 1,384 |
| 5,800 | 964 | 1,392 |
| 5,850 | 969 | 1,399 |
| 5,900 | 974 | 1,407 |
| 5,950 | 979 | 1,414 |
| 6,000 | 984 | 1,422 |
| 6,050 | 990 | 1,430 |
| 6,100 | 996 | 1,440 |
| 6,150 | 1,002 | 1,449 |
| 6,200 | 1,009 | 1,458 |
| 6,250 | 1,015 | 1,468 |
| 6,300 | 1,022 | 1,477 |
| 6,350 | 1,028 | 1,486 |
| 6,400 | 1,034 | 1,495 |
| 6,450 | 1,041 | 1,505 |
| 6,500 | 1,047 | 1,514 |
| 6,550 | 1,054 | 1,523 |
| 6,600 | 1,060 | 1,532 |
| 6,650 | 1,066 | 1,542 |
| 6,700 | 1,073 | 1,551 |
| 6,750 | 1,079 | 1,560 |
| 6,800 | 1,086 | 1,569 |
| 6,850 | 1,092 | 1,579 |

noncustodial parent's child support order. The net income is determined by the gross income of each parent minus allowable deductions.

If either parent is a recipient of Temporary Assistance for Needy Families (TANF) or is unemployed, that parent's income is figured at minimum wage. If either parent is disabled, that parent's actual income is used. (SDCL 25-7-6.4). Additionally, the referee and/or court may consider assets when income of the parents is insufficient to meet the child's needs (SDCL 25-7-6.5), and may disallow depreciation and other expenses allowed for federal income tax purposes in computing a parent's net income for purposes of calculating child support obligations. (SDCL 25-7-6.6).

Monthly gross income includes income received from any of the following (SDCL 25-7-6.3):

- Compensation paid to an employee for personal services, whether salary, wages, commissions, bonuses or otherwise designated.
- Self-employment income including gain, profit or loss from a business, farm or profession.
- Periodic payments from pensions or retirement programs, including Social Security or veteran's benefits, disability payments or insurance contracts.
- Interest, dividends, rentals, royalties, or other gain derived from investment of capital assets.
- Gain or loss from the sale, trade or conversion of capital assets.
- Unemployment insurance benefits.
- Worker's compensation benefits.
- Benefits in lieu of compensation including military pay allowances.

If a parent's income is seasonal, or received in payments other than regular, recurring payments, the income may be annualized to determine a monthly average income.

If the parent is employed full time at a rate of pay that equals or exceeds the state's minimum wage, it shall be presumed that a parent's second job income is not to be considered in establishing a child support obligation. However, this presumption may be rebutted by evidence that the income source was available to pay expenses related to the child when the family was intact or if the family had formed, by evidence that exclusion of the income would result in a financial hardship upon the other parent, or that exclusion of the second job income will have a substantial negative effect upon the child's standard of living. (SDCL 25-7-6.22)

The following are profits or losses shown on federal income tax schedules as gross income (SDCL 25-7-6.6):

Gross income from a business, profession, farming, rentals, royalties, estates, trusts, or other sources, are the net profits or gain, or net losses shown on any or all schedules filed as part of the parents' federal income tax returns or as part of any federal income tax returns for any business with which he is associated, except that the court may allow or disallow deductions for federal income taxation purposes which do not require the expenditure of cash, including, but not limited to, depreciation or depletion allowances, and may further consider the extent to which household expenses, automobile expenses, and related items are deductible or partially deductible for income tax purposes. In the event a court disallows depreciation, it may consider necessary capital expenditures which enhance the parent's current income for child support purposes. (SDCL 25-7-6.6)

The following deductions from monthly gross income are allowed (SDCL 25-7-6.7):

- Income taxes payable based on the applicable tax rate for a single taxpayer with one withholding allowance and a monthly payroll period rather than the actual tax rate.

| Three Children | Four Children | Five Children | Six Children |
|----------------|---------------|---------------|--------------|
| 1,166 | 1,289 | 1,397 | 1,495 |
| 1,177 | 1,301 | 1,410 | 1,509 |
| 1,188 | 1,313 | 1,423 | 1,523 |
| 1,199 | 1,325 | 1,437 | 1,537 |
| 1,210 | 1,337 | 1,450 | 1,551 |
| 1,221 | 1,350 | 1,463 | 1,565 |
| 1,232 | 1,362 | 1,476 | 1,579 |
| 1,244 | 1,374 | 1,490 | 1,594 |
| 1,256 | 1,388 | 1,505 | 1,610 |
| 1,268 | 1,401 | 1,519 | 1,626 |
| 1,281 | 1,415 | 1,534 | 1,641 |
| 1,293 | 1,429 | 1,549 | 1,657 |
| 1,305 | 1,442 | 1,563 | 1,673 |
| 1,317 | 1,456 | 1,578 | 1,688 |
| 1,330 | 1,469 | 1,593 | 1,704 |
| 1,342 | 1,483 | 1,607 | 1,720 |
| 1,354 | 1,496 | 1,622 | 1,735 |
| 1,365 | 1,508 | 1,635 | 1,749 |
| 1,376 | 1,520 | 1,648 | 1,763 |
| 1,387 | 1,533 | 1,661 | 1,778 |
| 1,398 | 1,545 | 1,674 | 1,792 |
| 1,409 | 1,557 | 1,688 | 1,806 |
| 1,420 | 1,569 | 1,701 | 1,820 |
| 1,431 | 1,581 | 1,714 | 1,834 |
| 1,442 | 1,593 | 1,727 | 1,848 |
| 1,453 | 1,606 | 1,740 | 1,862 |
| 1,464 | 1,618 | 1,754 | 1,876 |
| 1,475 | 1,630 | 1,767 | 1,891 |
| 1,486 | 1,642 | 1,780 | 1,905 |
| 1,497 | 1,654 | 1,793 | 1,919 |
| 1,508 | 1,666 | 1,806 | 1,932 |
| 1,517 | 1,676 | 1,817 | 1,944 |
| 1,526 | 1,686 | 1,828 | 1,956 |

| Monthly Net Income | One Child | Two Children |
|-------------------------------|----------------------|-------------------------|
| 3,600 | 692 | 996 |
| 3,650 | 698 | 1,005 |
| 3,700 | 705 | 1,014 |
| 3,750 | 711 | 1,024 |
| 3,800 | 717 | 1,033 |
| 3,850 | 723 | 1,042 |
| 3,900 | 730 | 1,051 |
| 3,950 | 737 | 1,061 |
| 4,000 | 744 | 1,072 |
| 4,050 | 752 | 1,082 |
| 4,100 | 759 | 1,093 |
| 4,150 | 767 | 1,104 |
| 4,200 | 774 | 1,114 |
| 4,250 | 782 | 1,125 |
| 4,300 | 789 | 1,136 |
| 4,350 | 797 | 1,146 |
| 4,400 | 804 | 1,157 |
| 4,450 | 811 | 1,166 |
| 4,500 | 817 | 1,176 |
| 4,550 | 824 | 1,185 |
| 4,600 | 830 | 1,194 |
| 4,650 | 837 | 1,204 |
| 4,700 | 843 | 1,213 |
| 4,750 | 850 | 1,222 |
| 4,800 | 856 | 1,232 |
| 4,850 | 863 | 1,241 |
| 4,900 | 869 | 1,251 |
| 4,950 | 876 | 1,260 |
| 5,000 | 882 | 1,269 |
| 5,050 | 889 | 1,279 |
| 5,100 | 895 | 1,288 |
| 5,150 | 900 | 1,295 |
| 5,200 | 905 | 1,303 |

- Social Security and Medicare taxes based on the applicable tax rate for an employee or a self-employed taxpayer.
- Contributions to an IRS qualified retirement plan not exceeding 10 percent of gross income.
- Actual business expenses of an employee, incurred for the benefit of his or her employer, that are not reimbursed.
- Payments made on other support and maintenance orders.

Determining the Basic Child Support Obligation from the Schedule

After the monthly gross incomes and allowable deductions of each parent are determined, each party's net income is calculated by deducting the allowable deductions from their gross income. The net incomes of each party are then added together to arrive at the combined monthly net income for child support purposes. The combined child support obligation is then determined by the amount listed in the guidelines for the combined monthly net income and the number of children.

For example, if the net income of the custodial parent is \$1,200 and the net income of the noncustodial parent is \$1,000, the combined net income is \$2,200. The combined child support obligation at the \$2,200 net income level for two children is \$734 per month as found in the guidelines.

The \$734 combined child support obligation from the schedule is then divided proportionately between the parents based on their respective incomes. In the above example, the noncustodial parent's proportionate share of the combined child support obligation is \$330 per month for two children. ($1,000/2,200 = 45\% \times \$734 = \$330$).

Because the obligation amount using only the noncustodial parent's net income falls within the bolded areas of the guidelines, that amount must be compared to the \$330 obligation amount as computed above. The noncustodial parent's basic support obligation using only his or her net income of \$1,000 is \$250 for two children. Since the obligation using only the noncustodial parent's net income is less than the \$330 obligation using both parent's incomes, the basic child support obligation would be \$250. (SDCL 25-7-6.2)

The Division of Child Support's Web site at www.dss.sd.gov/childsupport can be used to obtain an estimated basic child support obligation.

Deviations May Be Made

Deviations from the schedule may be granted, if raised by either parent, and based upon one or more of the following factors (SDCL 25-7-6.10):

- The income of a subsequent spouse or contribution of a third party to the income or expenses of that parent but only if the application of the schedule works a financial hardship on either parent.
- Any financial condition of either parent that would make application of the schedule inequitable. If the total amount of the child support obligation, including any adjustments for health insurance and child care costs, exceeds 50 percent of the noncustodial parent's monthly net income, it shall be presumed that the amount of the obligation imposes a financial hardship on the noncustodial parent. This presumption may be rebutted based upon other factors set forth in SDCL 25-7.
- Any necessary education or health care special needs of the child.
- The effect of agreements between the parents regarding extra forms of support for the direct benefit of the child.
- The obligation of either parent to provide for subsequent natural children or stepchildren.

| Three Children | Four Children | Five Children | Six Children |
|-------------------|------------------|------------------|-----------------|
| 755 | 775 | 795 | 815 |
| 780 | 800 | 820 | 840 |
| 805 | 825 | 845 | 865 |
| 830 | 850 | 870 | 890 |
| 849 | 875 | 895 | 915 |
| 864 | 900 | 920 | 940 |
| 879 | 925 | 945 | 965 |
| 893 | 950 | 970 | 990 |
| 908 | 975 | 995 | 1,015 |
| 923 | 1,000 | 1,020 | 1,040 |
| 937 | 1,025 | 1,045 | 1,065 |
| 952 | 1,050 | 1,070 | 1,090 |
| 966 | 1,068 | 1,095 | 1,115 |
| 973 | 1,075 | 1,120 | 1,140 |
| 980 | 1,083 | 1,145 | 1,165 |
| 988 | 1,091 | 1,170 | 1,190 |
| 995 | 1,099 | 1,191 | 1,215 |
| 1,002 | 1,107 | 1,200 | 1,240 |
| 1,009 | 1,115 | 1,209 | 1,265 |
| 1,016 | 1,123 | 1,217 | 1,290 |
| 1,023 | 1,131 | 1,226 | 1,312 |
| 1,030 | 1,139 | 1,234 | 1,321 |
| 1,041 | 1,150 | 1,247 | 1,334 |
| 1,053 | 1,163 | 1,261 | 1,349 |
| 1,064 | 1,176 | 1,275 | 1,364 |
| 1,076 | 1,189 | 1,288 | 1,379 |
| 1,087 | 1,201 | 1,302 | 1,393 |
| 1,099 | 1,214 | 1,316 | 1,408 |
| 1,110 | 1,227 | 1,330 | 1,423 |
| 1,122 | 1,239 | 1,343 | 1,438 |
| 1,133 | 1,252 | 1,357 | 1,452 |
| 1,144 | 1,265 | 1,371 | 1,467 |
| 1,155 | 1,277 | 1,384 | 1,481 |

| Monthly Net Income | One Child | Two Children |
|-----------------------|--------------|-----------------|
| 1,950 | 458 | 663 |
| 2,000 | 469 | 679 |
| 2,050 | 480 | 695 |
| 2,100 | 491 | 710 |
| 2,150 | 499 | 722 |
| 2,200 | 508 | 734 |
| 2,250 | 516 | 747 |
| 2,300 | 524 | 759 |
| 2,350 | 533 | 771 |
| 2,400 | 541 | 784 |
| 2,450 | 550 | 796 |
| 2,500 | 558 | 808 |
| 2,550 | 566 | 820 |
| 2,600 | 571 | 827 |
| 2,650 | 576 | 833 |
| 2,700 | 580 | 840 |
| 2,750 | 585 | 846 |
| 2,800 | 590 | 852 |
| 2,850 | 594 | 859 |
| 2,900 | 599 | 865 |
| 2,950 | 604 | 872 |
| 3,000 | 609 | 878 |
| 3,050 | 615 | 888 |
| 3,100 | 622 | 898 |
| 3,150 | 630 | 908 |
| 3,200 | 637 | 918 |
| 3,250 | 644 | 928 |
| 3,300 | 651 | 938 |
| 3,350 | 658 | 948 |
| 3,400 | 665 | 958 |
| 3,450 | 673 | 968 |
| 3,500 | 679 | 977 |
| 3,550 | 686 | 987 |

However, an existing support order may not be modified solely for this reason.

- A voluntary act by either parent which reduces that parent's income.

Other Factors that May Be Considered

Visitation Abatement and Shared Responsibility Adjustment

Unless the parties otherwise agree and the agreement is approved by the court, the court may order an abatement of not less than 38 percent nor more than 66 percent of the child support if: 1) the child(ren) spends 10 or more days in a month with the obligor and 2) the days of visitation and the abatement amount are specified in the court order. The court shall allow the abatement to the obligor in the month in which the visitation is exercised, unless otherwise ordered.

The abatement shall be prorated to the days of visitation. It shall be presumed that the visitation is exercised. If the visitation exercised substantially deviates from the visitation order, either party may file a petition for modification without showing any other changes in circumstances.

Shared responsibility is a parenting plan whereby each parent provides a suitable home for the child of the parties; the court order allows the child to spend at least 120 days in a calendar year in each home; and the parents have agreed **in writing** to share the duties, responsibilities and expenses of the parenting, including expenses for the child's education, recreation and entertainment activities. In a shared responsibility plan, unless the parties otherwise agree and the agreement is approved by the court, the court may, if deemed appropriate under the circumstances, order a shared responsibility cross credit. The cross credit shall be calculated by multiplying the combined child

support obligation using both parents' monthly net incomes by 1.5 to arrive at a shared custody child support obligation.

The shared custody child support obligation shall be apportioned to each parent according to his or her net income. A child support obligation is computed for each parent by multiplying that parent's portion of the shared custody child support obligation by the percentage of time the child spends with the other parent. The respective child support obligations are offset, with the parent owing more child support paying the difference between the two amounts.

It shall be presumed that the shared responsibility parenting plan is exercised. If the parenting plan exercised substantially deviates from the plan ordered, either party may file a petition for modification without showing any other change in circumstances.

The court shall consider each case individually before granting either the basic visitation or shared responsibility adjustment to ensure that the adjustment does not place an undue hardship on the custodial parent or have a substantial negative effect on the child's standard of living (SDCL 25-7-6.14)

A party seeking an abatement for visitation or shared responsibility adjustment must submit a copy of their most recent visitation order.

Child Care Expenses

The court may enter an order allocating the reasonable child care expenses for the child(ren), which are due to employment, job search or the training or education of either parent necessary to obtain a job or enhance earning potential. The court may consider whether the federal child care tax credit is available as a benefit to the custodial parent. If so, it shall be calculated at 25 percent of the eligible expense. (SDCL 25-7-6.18).

their respective net incomes. The noncustodial parent's proportionate share establishes the amount of the child support obligation.

If the obligation using only the noncustodial parent's monthly net income is an obligation within the emboldened areas of the schedule, that amount shall be compared to the noncustodial parent's proportionate share using both parents' monthly net incomes. The lesser amount establishes the noncustodial parent's child support order. The share of the custodial parent is presumed to be spent directly for the benefit of the child.

| Three Children | Four Children | Five Children | Six Children |
|-------------------|------------------|------------------|-----------------|
| 180 | 200 | 220 | 240 |
| 205 | 225 | 245 | 265 |
| 230 | 250 | 270 | 290 |
| 255 | 275 | 295 | 315 |
| 280 | 300 | 320 | 340 |
| 305 | 325 | 345 | 365 |
| 330 | 350 | 370 | 390 |
| 355 | 375 | 395 | 415 |
| 380 | 400 | 420 | 440 |
| 405 | 425 | 445 | 465 |
| 430 | 450 | 470 | 490 |
| 455 | 475 | 495 | 515 |
| 480 | 500 | 520 | 540 |
| 505 | 525 | 545 | 565 |
| 530 | 550 | 570 | 590 |
| 555 | 575 | 595 | 615 |
| 580 | 600 | 620 | 640 |
| 605 | 625 | 645 | 665 |
| 630 | 650 | 670 | 690 |
| 655 | 675 | 695 | 715 |
| 680 | 700 | 720 | 740 |
| 705 | 725 | 745 | 765 |
| 730 | 750 | 770 | 790 |

Support Obligation Schedule

SDCL 25-7-6.2.

The child support obligation shall be established in accordance with the following schedule subject to such revisions or deviations as may be permitted pursuant to §§ 25-7-6.1 to 25-7-6.18, inclusive.

Except as provided in this chapter, the combined monthly net incomes of both parents shall be used in determining the obligation and divided proportionately between the parents based upon

| Monthly Net Income | One Child | Two Children |
|-----------------------|--------------|-----------------|
| 0-800 | 100 | 150 |
| 850 | 125 | 175 |
| 900 | 150 | 200 |
| 950 | 175 | 225 |
| 1,000 | 200 | 250 |
| 1,050 | 225 | 275 |
| 1,100 | 250 | 300 |
| 1,150 | 275 | 325 |
| 1,200 | 291 | 350 |
| 1,250 | 302 | 375 |
| 1,300 | 313 | 400 |
| 1,350 | 324 | 425 |
| 1,400 | 336 | 450 |
| 1,450 | 347 | 475 |
| 1,500 | 358 | 500 |
| 1,550 | 369 | 525 |
| 1,600 | 380 | 550 |
| 1,650 | 391 | 566 |
| 1,700 | 402 | 582 |
| 1,750 | 413 | 598 |
| 1,800 | 424 | 615 |
| 1,850 | 436 | 631 |
| 1,900 | 447 | 647 |

A party seeking child care expenses must submit verification of expenses incurred for the child(ren).

Travel Costs

If travel costs are substantial due to the distance between the parents, the court may order the allocation of such costs, taking into consideration the circumstances of the respective parties as well as which parent moved and the reason for the move. (SDCL 25-7-6.15) **A party seeking allocation of travel costs must submit verification of travel costs, if available.**

Medical Insurance

The court may enter an order for health and dental insurance coverage. Medical insurance shall be provided whenever practical. The cost of the insurance attributable to the child(ren) shall be determined by dividing the out-of-pocket cost of the insurance to the parent by the number of individuals insured. If the actual additional costs for the child(ren)'s share of the insurance is provided at the time of the hearing, that figure shall be used. The cost computed shall be apportioned between the parents on the basis of income.

If one parent pays the entire amount, that parent shall either be reimbursed by the other parent for that parent's portion of the payment or shall receive a credit against his or her support obligation, whichever is appropriate. Any additional, reasonable medical costs, including optometric, dental or orthodontic, counseling or other health care costs for each minor child which exceed \$250 in any year and are not covered by insurance, shall be apportioned between the parents in proportion to the support obligation of each parent. (SDCL 25-7-6.16). **A party seeking health insurance costs must submit verification of health insurance coverage for the child(ren).**

*Medicaid is not considered satisfactory health insurance.

Medical Expenses Not Covered by Insurance

A parent, guardian or other custodian may obtain a standardized form from the clerk of court, referee or Division of Child Support to request reimbursement of any medical or health care costs from the responsible parent. If the responsible parent does not reimburse the other parent, a small claims action may be initiated by the parent, guardian or other custodian to obtain a judgment against the responsible parent to collect unreimbursed medical or health care costs from the responsible parent. (SDCL 25-7-6.25)

Forms to initiate a small claims action may be obtained from the clerk of court. You must provide a written statement, signed and notarized, describing how the loss or damage occurred. This statement, along with supporting documents (receipts, cost estimates, etc) and the address of the parties, must be filed with the clerk of court. The fee for starting the action, and the postage and service cost required, may be added to the damages claimed against the defendant. The Division of Child Support does not initiate the small claims action. For more information on initiating a small claims action, see the South Dakota Unified Judicial System's website at www.sdjudicial.com.

Immediate Income Withholding

South Dakota law requires immediate withholding of income to be considered as part of any child support order. (SDCL 25-7A-23). However, the actual withholding process does not begin automatically. To make sure a withholding order becomes effective, you should contact your attorney or the Child Support office nearest you.

Modification Process Flowchart

